

RESOLUTION NO. 79-30

RESOLUTION AUTHORIZING NPC TAX DEFERRED ANNUITY AND INSURANCE MARKETING CORPORATION TO SERVE AS THE CITY'S ADMINISTRATOR/COORDINATOR FOR DEFERRED COMPENSATION.

RESOLVED, that the City Council of the City of Lodi does hereby approve Agreement dated March 21, 1979 designating NPC Tax Deferred Annuity and Insurance Marketing Corporation to serve as the City of Lodi's Administrator/Coordinator for Deferred Compensation, a copy of which is attached hereto, and thereby made a part hereof.

BE IT FURTHER RESOLVED, that the Mayor and the City Clerk are hereby authorized to execute said Agreement on behalf of the City of Lodi.

Dated: March 21, 1979

I hereby certify that Resolution No. 79-30 was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 21, 1979 by the following vote:

Ayes: Councilmen - Hughes, Katzakian, McCarty and  
Pinkerton

Noes: Councilmen - None

Absent: Councilmen - Katnich

  
ALICE M. REIMCHE  
CITY CLERK

AGREEMENT FOR PLAN ADMINISTRATOR/COORDINATOR

THIS AGREEMENT, made and entered into this 21st day of March, 19 79, by and between the City of Lodi, a political subdivision of the State of California (hereinafter called CITY), and NPC Tax Deferred Annuity and Insurance Marketing Corporation (hereinafter called Administrator/Coordinator):

RECITALS

The City Council of the City has adopted Resolution No. 79-30, dated March 21, 1979 authorizing the establishment of a Deferred Compensation Plan and an Agreement between City and Administrator/Coordinator, a copy of said Resolution which is attached hereto.

It is the desire of City to contract for the Services of the Administrator/Coordinator to perform for City certain functions in the implementation and continuing operation of the Deferred Compensation Plan relating to the dissemination of information to employees and the enrollment of employees in the Plan of highly-qualified personnel; to aid in the collection and disbursement of monies to the appropriate funding media; and to assist City in the drafting of amendments to the Plan and/or attendant agreements necessary thereto so that said documents meet applicable regulatory requirements

It is the desire of the Administrator/Coordinator to provide the above services subject to the terms and conditions of this agreement.

## AGREEMENT

1. TERM. The respective duties and obligations of the parties hereto shall commence on the date and year first above written.

2. PERFORMANCE OF SERVICES. Notwithstanding any other provision to the contrary, the Administrator/Coordinator shall have the right to designate an agent of its choice to perform such services under this agreement as may be mutually agreed to between the Administrator/Coordinator and such agent. The Administrator/Coordinator is not liable, however, for investment performance.

3. REVIEW DEFERRED COMPENSATION PLAN. The Administrator/Coordinator agrees to review the approved Deferred Compensation Plan and to assist in the preparation and submission of any attendant agreements, such as joinder agreements, necessary for the implementation of the Plan or the performance of its duties under the Plan. Such agreements will be prepared in accordance with the rules and regulations of the Internal Revenue Service. The Administrator/Coordinator agrees, from time to time, to advise City of any changes in Federal or State rules and regulations that may affect the validity or feasibility of the Deferred Compensation Plan or its duties hereunder; the Administrator/Coordinator shall not be liable, however, for the effect of any such changes in Federal or State rules and regulations on the Deferred Compensation Plan.

4. INVESTMENT VEHICLES.

A. The Administrator/Coordinator agrees to assist City concerning investment alternatives to be made available to employees participating in the Plan which shall include, but not be limited to, bank accounts, fixed and/or variable annuities, mutual funds, life insurance, and/or other investments

which are permissible under the provisions of the Deferred Compensation Plan.

B. The Administrator/Coordinator agrees that when specifically requested by \_\_\_\_\_ City \_\_\_\_\_, and after \_\_\_\_\_ City \_\_\_\_\_ has selected the investment alternatives to design the bid specifications and solicit investment proposals from the major prospective funding agencies.

C. The Administrator/Coordinator agrees to review, evaluate, and analyze all responses received from the investment agencies and submit its findings to \_\_\_\_\_ City \_\_\_\_\_.

D. The Administrator/Coordinator agrees, annually, to review, analyze, and evaluate the performance and status of the selected funding media, together with their deferred compensation products and report to \_\_\_\_\_ City \_\_\_\_\_ any recommendations concerning possible improvements in the investment contracts.

E. The Administrator/Coordinator agrees that it will review and evaluate the potential of new and relevant deferred compensation investment products and inform \_\_\_\_\_ City \_\_\_\_\_, from time to time, of the feasibility of including new investment products under the Deferred Compensation Plan.

5. ENROLLMENT SERVICES. The Administrator/Coordinator agrees to conduct the enrollment(s) of all employees who elect to participate in the Deferred Compensation Plan. The Administrator/Coordinator agrees to design and prepare a comprehensive educational and merchandising program for distribution to \_\_\_\_\_ City \_\_\_\_\_ employees. The Administrator/Coordinator agrees not to distribute the program until it has been approved by \_\_\_\_\_ City \_\_\_\_\_.

The Administrator/Coordinator agrees to conduct group presentations for \_\_\_\_\_ City \_\_\_\_\_ employees to explain the Deferred Compensation Program. The Administrator/Coordinator agrees that the personnel responsible for enrolling employees into the Deferred Compensation Plan will possess whatever licenses are required by law, both Federal and State. The licensed personnel shall have extensive experience in communicating the kinds of investment vehicles offered under the Plan. The Administrator/Coordinator will insure that qualified personnel are retained on a continuing basis to provide experienced financial assistance on a local basis throughout the term of this agreement so that participants or potential participants receive personal counseling.

The Administrator/Coordinator agrees that in performing the services provided hereunder by itself or through a designee that it will conduct itself at all times with due regard to rules and regulations of \_\_\_\_\_ City \_\_\_\_\_ and it further agrees not to do or commit any act that will reasonably tend to degrade City \_\_\_\_\_ or bring it into public contempt or ridicule, or prejudice the maintenance of the good employee-employer relationship existing between \_\_\_\_\_ City \_\_\_\_\_ and its employees.

6. COLLECTION AND DISBURSEMENT.

A. The Administrator/Coordinator agrees to direct \_\_\_\_\_ City \_\_\_\_\_ or Custodian Bank to distribute and credit such amounts to the appropriate investment media within limitations of the respective investment contracts pursuant to each employee's "investment specifications" unless otherwise designated by \_\_\_\_\_ City \_\_\_\_\_, as provided for by the terms of the Deferred Compensation Plan and Participation Agreement, or modifications thereof.

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B. The Administrator/Coordinator agrees to provide instructions for direction of all distribution of benefits directly to \_\_\_\_\_ City \_\_\_\_\_ or Custodian Bank or to the investment media when required on instruction from \_\_\_\_\_ City \_\_\_\_\_ under the terms of the respective investment contracts in accordance with the provisions of the Deferred Compensation Plan. The distribution of benefits to participants shall comply with all applicable State and Federal rules and regulations of the State or Federal taxing authorities.

C. The Administrator/Coordinator shall direct the investment media to purchase and liquidate all insurance and/or annuities, securities, mutual funds, savings accounts, or other investments under the Deferred Compensation Plan in their capacity as Administrator on instructions from \_\_\_\_\_ City \_\_\_\_\_.

7. RECORD KEEPING AND REPORTS.

A. The Administrator/Coordinator agrees that an individual record will be established for each participating employee and contain information including, but not limited to, Social Security number, the specific amount of the participant's contribution, the allocation of the contribution to one or more funding media, the participant's beneficiary designation, and other pertinent data necessary for the efficient administration of each participant's account.

B. The Administrator/Coordinator agrees to provide data required by the selected investment media to effect purchases from that investment media.

C. The Administrator/Coordinator agrees to provide the processing, accounting, record keeping services, and reports on a timely basis.

8. RESPONSIBILITIES OF \_\_\_\_\_.

A. \_\_\_\_\_ City \_\_\_\_\_ agrees to provide assistance in setting up timetables for providing facilities for group meetings of employees for distribution information about the Plan.

B. \_\_\_\_\_ City \_\_\_\_\_ agrees to provide facilities to be used for counseling and enrollment of employees.

C. \_\_\_\_\_ City \_\_\_\_\_ agrees to collect all deferred amounts from participating employees' warrants and to remit said amounts within a reasonable period of time to the Administrator/Coordinator for appropriate distribution.

D. \_\_\_\_\_ City \_\_\_\_\_ agrees to transmit on a timely basis any relevant information requested by the Administrator/Coordinator relating to each participating employee upon entry into the program, and further agrees to transmit any information relating to changes in an individual participant's account.

E. \_\_\_\_\_ City \_\_\_\_\_ agrees to transmit on a timely basis any relevant information of a participant's withdrawal, termination or request for distribution under the Plan including the method and timing of any distribution.

F. \_\_\_\_\_ City \_\_\_\_\_ agrees to provide payroll reduction procedures and facilities.

G. \_\_\_\_\_ City \_\_\_\_\_ agrees to provide information requested by the Administrator/Coordinator on a timely basis. \_\_\_\_\_

\_\_\_\_\_ City \_\_\_\_\_ agrees to use its best efforts to assure the accuracy and completeness of all information provided.

9. COMPENSATION. Administrator/Coordinator shall receive a sum not to exceed \$.50 per pay period per participant from \_\_\_\_\_ City \_\_\_\_\_ for administrative expenses. The actual charge shall be based upon the total number of participants contributing

or receiving distribution as of the last day of each pay period.

This charge shall be increased if \_\_\_\_\_ City \_\_\_\_\_ offers more than five investment options, to a sum of \$.25 per additional investment option per pay period for all Plan participants for those investment options in excess of five.

10. BROKER OF RECORD. NPC Tax Deferred Annuity and Insurance Marketing Corporation or its designee is hereby appointed as Broker of Record for all investment vehicles offered under this Deferred Compensation Program and is authorized to receive compensation (i.e., any and all commissions, renewals, service fees, and concessions) developed as a result of the sales of these investment vehicles.

11. TERMINATION. This Agreement shall continue in force for a period of three (3) years and will be renewed annually thereafter subject to termination upon written notice ninety (90) days prior to the next annual renewal date.

If this Agreement is not renewed, the Administrator/Coordinator agrees to transfer to \_\_\_\_\_ City \_\_\_\_\_ or to a successor Administrator/Coordinator designated in writing by \_\_\_\_\_ City \_\_\_\_\_ within ninety (90) days of the date of termination, all records and documents relating to the services provided hereunder.

12. HOLD HARMLESS. \_\_\_\_\_ City \_\_\_\_\_ agrees to indemnify and hold the Administrator/Coordinator harmless from any loss, liability, claim, suit or judgment resulting from work or acts done or omitted by \_\_\_\_\_ City \_\_\_\_\_ employees or agents in carrying out \_\_\_\_\_ City \_\_\_\_\_ responsibilities as set forth in Paragraph 8 of this Agreement.

13. CIRCUMSTANCES EXCUSING PERFORMANCE. The execution by the parties of this Agreement is subject to force majeure and is



contingent upon fires and power failures, strikes, accidents, and acts of God, weather conditions or restrictions imposed by any government or governmental agency, other delays beyond the delayed party's control or defaults by participants or employers. Failures of or defaults of participants, employers, associations or trustees shall excuse performance by the Administrator/Coordinator thereby prevented.

14. OWNERSHIP OF RECORDS. The Administrator/Coordinator agrees that all records shall be the property of \_\_\_\_\_ City \_\_\_\_\_, that all computer tapes, discs and programs shall be the property of the Administrator/Coordinator.

15. CONFIDENTIALITY. All information supplied to, and all work processed or completed by the Administrator/Coordinator (including outside processing, if any) will be held to be confidential and private and will not be disclosed to anyone other than \_\_\_\_\_ City \_\_\_\_\_ or those persons, corporations or governmental agencies who have a lawful right to such information under the terms of the Deferred Compensation Plan and then only after permission to release such information has been given by the \_\_\_\_\_ City \_\_\_\_\_.

16. ASSIGNABILITY. No party to this agreement shall assign the same without the written consent of the other party thereto, such consent not to be unreasonably withheld. Unless agreed to by the parties, no assignment shall relieve any party to this Agreement of any duties or liabilities hereunder.

17. NOTICES. All notices and demands to be given under this Agreement by one party to another shall be given certified mail, addressed to the party to be notified or upon whom a demand is being made at the respective addresses set forth in this Agreement or such other place as either party shall from time to time designate

in writing. The date of service of a notice or demand shall be construed in accordance with the laws of the State of California.

18. PARTIES BOUND. This Agreement and the provisions thereof shall be binding upon the respective parties and shall insure to the benefit of the same and to their successors and assigns.

19. APPLICABLE LAW. This Agreement shall be constructed in accordance with the laws of the State of California.

20. UNLAWFUL PROVISIONS. In the event any provision of this agreement shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of the agreement, but the same shall be construed and enforced as if said illegality or invalid provisions had never been inserted herein or therein. Notwithstanding anything contained herein to the contrary, no party to this agreement will be required to perform or render any services hereunder, the performance or rendition of which would be violative of any laws, rules or regulations relating thereto.

21. AMENDMENTS. This agreement may be amended in writing at any time during the term hereof by the mutual consent of the parties.

IN WITNESS WHEREOF, the within parties have hereunto set their hands and seals the day and year first above written.

CITY OF LODI  
A MUNICIPAL CORPORATION

BY: \_\_\_\_\_  
James W. Pinkerton, Jr. City Mayor

ATTEST:

BY: \_\_\_\_\_  
Alice M. Reimche, City Clerk

NPC TAX DEFERRED ANNUITY AND  
INSURANCE MARKETING CORPORATION

BY: \_\_\_\_\_  
President

BY: \_\_\_\_\_  
Secretary

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